

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff,

v.

SENACA BARTLETT,

Defendant.  
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ORDER

05-cr-92-jcs

Defendant Senaca Bartlett has filed a Motion to Recommend Designation of Custody Period as Federal Custody, asking this court to recommend to the Bureau of Prisons that the sentence he is serving for his federal conviction be considered to have started to run concurrently with the sentence imposed on him in state court on January 24, 2006. Although I am not opposed to any decision by the Bureau of Prisons to treat the state and federal sentences as concurrent, I will deny defendant's motion.

Defendant was sentenced in this court by Judge Shabaz. Although he was in primary state custody when he was sentenced here, Judge Shabaz did not order his federal sentence to run concurrently with his state sentence, because no state sentence had been imposed at the time.

I am aware of no legal authority for changing a sentence once it has been imposed, except in the circumstances identified in Fed. R. Crim. P. 35. Ordinarily, a sentencing judge loses any power to modify a sentence as soon as the sentence is imposed, except for arithmetical, technical or other clear error and then only if the error is discovered within seven days. However, an informal practice has arisen in which a sentencing court (or the assigned court if the sentencing judge is unavailable) may respond to a request by the Bureau of Prisons for the judge's position on running a federal sentence concurrently with a state sentence. In those circumstances, I have responded to requests for my position on the matter, after eliciting responses from the parties. I would do the same if the Bureau were to inquire about the running of defendant's two sentences. However, I am not persuaded that it is appropriate to initiate a request for concurrent sentences.

#### ORDER

IT IS ORDERED that defendant Senaca Bartlett's motion for a recommendation for

concurrent service of his state and federal sentences is DENIED.

Entered this 26<sup>th</sup> day of June, 2009.

BY THE COURT:

/s/

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BARBARA B. CRABB  
District Judge